

ORG specific review of tabled Fiscal Responsibility Bill Sept 2018 (as of 9/26/18)

<p>Part II Section 2 (5)</p> <p>Removed: (5) The Minister may delegate any of the Minister's functions under this Act to deputies or officials within the Ministry except the function to make regulations and functions of a political nature in the exclusive responsibility of a minister, and the minister shall remain responsible for the delegated function at all times.</p>
<p>Implications: The responsibility for this act and compliance remains specifically on The Minister. This may remove authority to delegate functions or this right may be already implied in the existing scope of The Minister's capacity to manage the National Finances. .</p>
<p>Part II Section 8 (2-3)</p> <p>Replaced: (2) During the period in which the Government does not comply with the requirements for the fiscal objectives contained in the First Schedule, the Government shall implement a fiscal adjustment plan to be specified in the next fiscal strategy report which shall include the fiscal adjustment measures and the time to achieve compliance, provided that if section 13 applies the procedure in that section shall be applied. (3) The Government shall ensure the fiscal adjustment plan contains intended actions to return to compliance with the requirements for the fiscal objectives in the First Schedule as soon as practicable.</p>
<p>With : (2) The Government shall set fiscal objectives for the fiscal responsibility principles in the fiscal strategy report to ensure the proportions of capital and recurrent expenditure support compliance with the fiscal responsibility principles.</p>
<p>Implications:</p> <p>The removed language from this section is now included in section 15 which relates to breaches.</p>
<p>Part II Section 10</p> <p>Added: (8)The Fiscal Responsibility Council shall provide an opinion on any proposed amendment to the Second Schedule, to the Minister who shall table the opinion along with the amendments for consideration by Parliament</p>
<p>Implications: Includes the Fiscal Council as a proactive advisory resource in determination of proposed amendments to the contents of a Financial strategy report.</p>
<p>Part II Section 11</p> <p>Replaced The Financial Secretary shall, not earlier than thirty working days, nor later than twenty working days, before the day appointed as polling day in relation to any general election of members of the Parliament, arrange to be published on an official website of the Government, a Pre-election Economic and Fiscal Update which shall include the information specified in the Third Schedule. (2) The Pre-election Economic and Fiscal Update should not receive prior approval of or notice to the Cabinet.</p>
<p>With: The Minister shall, not earlier than thirty working days, nor later than twenty working days, before the day appointed as polling day in relation to any general election of members of Parliament, arrange to be published on an official website of the Government, a Pre-election Economic and Fiscal Update which shall include the information specified in the Third Schedule. (2) The Minister shall ensure that the Pre-election Economic and Fiscal Update is a</p>

technical and objective Update. (3) Following two general elections after the commencement of this Act, the Minister shall commission an independent review to consider – (a) the effectiveness of the Pre-election Economic and Fiscal Update in contributing to compliance with the fiscal responsibility requirements of this Act by the Government; and (b) whether additional requirements to increase transparency about fiscal responsibility with regard to a general election may be beneficial to propose for inclusion in the law. (4) The Minister shall ensure that the independent review shall be a technical and objective review. (5) The Prime Minister shall present the independent review to Parliament no later than six months after the second general election of a government following the commencement of this Act

Implications: Places the responsibility onto the Minister rather than Financial Secretary and does not stipulate that the Pre-election should not require approval or notice to the Cabinet. This can call into question the objectivity of any such report or the potential of political influence. Also charges the Minister to secure an independent review of the effectiveness of the update report and any additional measure after two election cycles. This report will be presented by the PM. There is no mention of involvement with the Fiscal Council. This could be more independent if it fell to the Fiscal Council and Financial Secretary.

Part II. Sec 12

Removed : 1(b) the fiscal responsibility principles; and

Implications: Removal of this language is most likely due to the implication that the Principles are inherent to the strategy.

Added (4) The Fiscal Responsibility Council shall provide an opinion on any proposed amendment to the Fourth Schedule, to the Minister who shall table the opinion along with the amendments for consideration by Parliament.

Implications: Includes the Fiscal Council as a proactive advisory resource in determination of proposed amendments the Mid-Year review regulations.

Part II. Section 15

Replaces: If the Government is in breach of – (a) the fiscal responsibility principles in section 7; (b) the requirements for the fiscal objectives in the First Schedule; or (c) the fiscal adjustment plan required by section 8(2), the Minister shall appear before the Public Accounts Committee of Parliament to explain the cause of the breach and the fiscal adjustment plan. (2) If the Public Accounts Committee is not satisfied the Minister has a realistic adjustment plan, the Committee may recommend that Parliament considers a resolution to – (a) require the Minister to take action – to improve the fiscal adjustment plan and the fiscal situation; or (b) require additional reporting to the Parliament on progress with the fiscal adjustment plan. (3) The Public Accounts Committee may recommend to the Minister that consideration be given to applying a financial or other penalty to a public office holder or public official deemed responsible by the Public Accounts Committee for a failure to comply with a requirement of this Act. (4) Before making a determination of responsibility, the Public Accounts Committee shall provide the public office holder or public official with a right to be heard and shall ensure due process in making the determination. (5) A public office holder or public official who has had a penalty imposed subsequent to a determination by the Public Accounts Committee under this section shall have a right of appeal to the Supreme Court.

With: 1) The Government shall notify the Parliament of a breach of this Act as soon as it becomes aware of it. (2) The Fiscal Responsibility Council shall notify the Government of a breach of this Act as soon as it becomes aware of it, if such breach has not already been notified by the Government to the Parliament. (3) If the Government is in breach of — (a) the fiscal responsibility principles in section 7; (b) the requirements for the fiscal objectives in the First Schedule; or (c) the fiscal adjustment plan required by section 8(2), the Minister shall provide a fiscal adjustment plan to the Parliament within three weeks of becoming aware of the breach. (4) The fiscal adjustment plans shall state — (a) the reasons for departing from the requirements for the fiscal objectives in First Schedule; (b) the measures the Government intends to take to return to compliance with the requirements for the fiscal objectives in First Schedule; and (c) the period of time the Government expects to take to return to compliance with the fiscal objectives. (5) If the Parliament is not satisfied the Government has a realistic adjustment plan, or has failed to adequately implement the adjustment plan, Parliament may pass a resolution to — (a) require the Government to take action to improve the fiscal adjustment plan and the fiscal situation; or (b) require additional reporting to the Parliament on progress with the fiscal adjustment plan; or (c) or both paragraph (a) and (b).

Implication: Requires prompt reporting of a breach by government to Parliament and empowers the Fiscal Council to report any suspected breach to government. This also removes any involvement by the Public Accounts committee as a measure for accountability and eliminates reference to specific accountability for public. The reporting mechanisms seem very vague. Similarly, the criteria by which Parliament would be “unsatisfied” is also unclear. In the instance of a majority of Parliament belonging to cabinet, this would seem to offer no real check and balance as is intended in the FRB principles.

Part III section 18

Replaces: (1) The Council shall have the authority to request the Minister to create and to provide the Council with economic and fiscal forecasts and analysis as may be required for the Council to comply with its responsibilities and functions under this Act and the Council may request the Minister to provide fiscal projections based on alternative assumptions and scenarios. (2) Subject to laws on information, all public officials and public office holders shall provide information and documentation required by the Council to comply with its functions and responsibilities under this Act in the form and by the time required by the Council and this section relates to existing information and does not require public officials or public office holders to provide new or additional analysis except as provided for in subsection (1).

With: All public officials and public office holders shall provide information and documentation required by the Council to comply with its functions and responsibilities under this Act.

Implications: Removes specific language requiring to the Fiscal Council’s authority to rely on government supplied financial projections, forecasts and analysis. They can secure independent reports. Also, clearly states the requirement for government to provide information as requested.

Part III section 19 (2)

Replaced: The Council shall appoint one of the members as Chairperson of the Council by a majority vote of the members.

With: The Prime Minister, after consultation with the Leader of the Opposition, shall appoint from the members of the Council, one person to serve as Chairman of the Council.

Implications: For the Prime Minister to appoint the Council leader, instead of the members, can compromise the Independence and effectiveness of the Council.
Part III Section 20
Added: (2) The removal of a member of the Council under this section shall take effect immediately upon the decision of the Governor-General and the member shall be advised in writing of the removal.
Implications: This is included to specify the process of removal. No inclusion of the feedback of the other members of the FRC.
Part III Section 23
Removed: (5) The Council shall ensure it communicates its reports to the public in an effective manner.
Implications: Removes obscure language of “effective”.
Part IV. Section 24
Added: Evaluation of Fiscal Responsibility Council. The Speaker or the Governor-General may commission a review – (a) of the Council at any time; or (b) of a member of the Council when considering the removal of a member under section 21 of this Act.
Implications: Introduces a level of review for the FRC which could be a positive measure for accountability although provides no criteria for initiation of review (i.e. Annual) Without more specific terms, this could be open to misuse or political influence. It is also notable, that the legislation does not provide for a review or evaluation of public officials and their performance related to Fiscal Responsibility.
Part IV. Section 25 (formerly 24)
Replaced: (1) The Minister may make regulations generally as may appear to the Minister to be necessary and expedient for the proper implementation of the intent and objectives of this Act. (2) Any regulations made pursuant to subsection (1) shall be subject to affirmative resolution of the House of Assembly. (3) In subsection (2), the expression “subject to affirmative resolution of the House of Assembly” in relation to regulations means that any such regulations shall not come into operation until approved by a resolution of the House of Assembly.
With: (1) The Minister may make regulations generally as may appear to the Minister to be necessary and expedient for the proper implementation of the intent and objectives of this Act. (2) Any regulations made pursuant to subsection (1) shall be laid in the House of Assembly.
Implications: Removes the need for an affirmative resolution of the House of Assembly for The Minister of Institute regulations. Now they are simply required to be laid before the house. This increases the sweeping power of The Minister and in a worst case scenario opens the Fiscal Responsibility process to mis use.
First Schedule section 9
Replaced: The Government shall review the requirements in this Schedule in 2023 and every five years thereafter. 10. The Government may amend this Schedule by Order subject to

affirmative resolution of the House of Assembly following a review under paragraph 9 of the Schedule.
With: 9. The Government shall review the requirements in this Schedule in January 2022 and every five years thereafter. 10. The Government may amend this Schedule by Order subject to affirmative resolution of the House of Assembly following a review under paragraph 9 of the Schedule.
Implications: Advances the period of review forward 1 year. Likely this is done to ensure that the Fiscal Responsibility cannot be reversed easily by subsequent administrations.
Second schedule section 9
Adds: (1) (d) capital Government expenditure as a percentage of aggregate Government expenditure, as a percentage of GDP and in nominal terms;
Implications: Further specifies the requirement of reporting to include capital expenditures.
Second Schedule section 9(4)
Replaced: an assessment of the consistency of the planned fiscal policy aggregates and measurable fiscal objectives in paragraph 9(2) of this Schedule with the fiscal responsibility principles and the requirements in the <i>First Schedule</i> ;
With: an assessment of the consistency of the planned fiscal policy aggregates and measurable fiscal objectives in paragraph 9(2) of this Schedule with the fiscal responsibility principles, the requirements in the First Schedule and the requirements of section 8(2);
Implications: specifies inclusion of the fiscal objectives in the consistency assessment.